received there. The directors of the institution, however, would certainly acquire an interest in the building, and have possession and control of it, as well as the spending of the money which might be paid by the government for the care of the sick. If this use of public money were allowed, it would form a sufficient precedent for appropriations to any sort of sectarian institution which could be made the instrument of public charity; and such appropriations would very easily afford opportunities for discriminations entirely against the spirit of the Constitutional provision. To connect the administration of public charity with any organization under sectarian control is a step in the direction of an establishment of religion.

What Congress would be restrained from doing under the first Amendment can best be conjectured from a comparison of the numerous cases which have arisen under similar prohibitions in State Constitutions. The language of these Constitutions, though often much more explicit in forbidding aid to sectarian institutions, would not seem to cover any more ground than the general words of the Federal Constitution. As the State courts have almost always been very strict in condemning any sort of State aid to a school or charity under the control of any religious sect, so also it seems likely that the Federal courts, if occasion shall arise, will be strict in applying the prohibitions of the First Amendment.

GIVING A JUDGE THE LIE. — An interesting point in the law of contempt was recently passed upon by the Supreme Court of California in the case of *McClatchy* v. *Superior Court*, 51 Pac. Rep. 696. While a cause was on trial in the Superior Court, a newspaper in the town published what purported to be the testimony of one of the witnesses. On seeing the article the judge stated from the bench that it was entirely false and a gross fabrication, to which the newspaper, in its afternoon issue of that day, replied that the judge, "a prejudiced and vindictive Czar, . . . knew that the statement made in the *Bee* was essentially correct . . . when he shamelessly and brazenly declared it to be a gross fabrication." On being charged with contempt of court, the editor, at the hearing, desired to introduce witnesses to show that the report of the testimony in the *Bee* was correct. This the judge refused to allow, but permitted the defendant to show that the publications were made without malice. The defendant declined to avail himself of such privilege, and was adjudged guilty of contempt. On *certiorari*, the majority of the Supreme Court held that the refusal to permit defendant to prove the truth of the first publication denied to him his constitutional right to be heard in his own defence. The gravamen of the charge, say the court, was the alleged false character and wrongful intent of the first publication, to which charge proof that the report was true and without malice would constitute a complete defence. Three judges dissented, and their views are expressed in a strong opinion by Harrison, J.

It would seem that the grounds of the dissent were well taken. As Justice Harrison pointed out, it was not the report of the testimony that constituted the offence, but the subsequent publication stating that the judge knowingly lied, and attempting to make him accept the newspaper's version of the testimony. Assuming that version to have been correct, it certainly seems that the language of the second article tended to prejudice the judge as well as the public on the merits of the cause on trial,

reflected on the tribunal, and thus embarrassed the administration of justice. If the newspaper wished to vindicate itself against a false charge, it might perhaps have simply reasserted the truth of its first report, or better yet, have waited for vindication till the trial was over; but to state, during the trial, that the judge knowingly lied was not a justifiable method of defending its reputation. If then the truth of the first publication was irrelevant to the charge, it can hardly be said that the defendant was denied a constitutional right in not being permitted to set up such a defence.

STATE CONTROL OF INTERSTATE COMMERCE. — The line between the permissible and the unpermissible in State legislation affecting interstate commerce becomes at times vague and indistinct. The fundamental reason for this uncertainty lies in the difference of opinion among authorities as to the interpretation of that clause in the United States Constitution which gives to Congress the power to regulate commerce between States. One view, expressed by Chancellor Kent, and commended by its simplicity, is to the effect that until Congress acts a State may pass any laws it pleases in regard to commerce. This view has not been taken by the Supreme Court; and the contrary doctrine now obtains, that Congress has exclusive power to regulate interstate commerce, and that even when Congress does not act no State can take the power to itself. Practical necessity, however, early compelled a modification of this broad doctrine; and many State laws are supported under the guise of the police power of the State. The limits of this police power have been difficult of definition; and they have been strained or contracted accordingly as the Court has felt more or less strongly the pressure of the doctrine of Chancellor Kent.

In this doubtful condition of the law, the recent case of *Chicago, M. & St. P. Ry. Co.* v. *Solan*, 18 Sup. Ct. Rep. 289, is interesting. An Iowa statute, providing that no contract shall exempt from the carrier's liability any corporation carrying persons or goods by rail, was applied by an Iowa court to a contract of interstate commerce, the carrier being held to full liability for an accident happening in Iowa. In holding that the statute so applied was not unconstitutional as an attempt to regulate interstate commerce, the Court acts consistently with a line of other decisions which hold that a State may prescribe rules for the construction and regulation of railroads crossing its territory. *Smith* v. *Alabama*, 124 U. S. 465. Yet these decisions are hardly in accord with the reasoning in certain other cases. The general rule which has been laid down is that matters concerning interstate commerce which demand uniform regulation throughout the nation are beyond the scope of the police power of the State, while matters susceptible of a local treatment are within the scope of that power. This rule, however, has not been followed out with entire consistency. It was strained in putting a limitation of the police power in *Leisy* v. *Hardin*, 135 U. S. 100; the regulation there in question of sales of liquor brought from one State into another, even in the original package, seems to be a subject more fit for local than for national control; but the State law was held unconstitutional. In the present case, on the other hand, the rule is strained in the opposite direction in favor of the State power. The regulation of the contracts made by carriers engaged in interstate commerce would seem to be a particularly apt subject for a uniform